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NEGLIGENCE — BLASTING — ESTOPPEL — DAMAGES.—In an action to recover damages resulting from rocks thrown upon the plaintiff's land by blasting in defendant's quarry, and injury from water pumped from the quarry and allowed to flow on plaintiff's land, the defendant asked an instruction that, plaintiff having conveyed the premises occupied by the defendant, with knowledge that they were to be opened and used as a quarry, he was estopped from claiming any damages arising from the proper use of the quarry as a quarry, when carried on in the ordinary, usual, and proper business of a slate quarry.

This request was refused, and the jury was instructed that "plaintiff could maintain the action, provided he proves damages, although he sold the land with the understanding that it was to be used as a slate quarry," and that it was not necessary for the plaintiff to prove negligence or carelessness on the part of the defendant. Upon exceptions taken to the refusal to instruct, and to the instruction given, *held*, that the refusal was correct, as was also the instruction given.

The plaintiff also claimed to recover for probable future damages, but the court instructed the jury that no damages subsequent to the date of the writ could be recovered. *Held*, that the instruction is correct. *Wilkins v. Monson etc. Co.* (Me.), 52 Atl. 757. Citing, upon the question of estoppel, *Lyman v. R. R.*, 4 Cush. 288; *Wilson v. New Bedford*, 108 Mass. 21, 11 Am. Rep. 352.

EASEMENTS—DOMINANT AND SERVIENT ESTATES—DESTRUCTION OF SERVIENT ESTATE—PARTY WALL.—An easement is a privilege, without profit, which one has for the benefit of his land in the land of another. It is among its essential qualities that there are two tenements or estates—the dominant, to which the right belongs, and the servient, upon which the obligation is imposed. An easement may survive the destruction of a part of the servient estate when anything remains upon which the dominant estate may operate, but if confined to the right to use a particular building, without interest in the soil apart from the building, it is extinguished by the destruction of the building. *Bonney v. Greenwood* (Me.), 52 Atl. 786. Citing *Shirley v. Crabb*, 138 Ind. 200, 46 Am. St. Rep. 376.

In the absence of any agreement to the contrary, the destruction of a party wall destroys an easement therein created by building the wall along the dividing line of two lots and conveying one or both of the buildings by deeds describing the line as running through the center of the party wall. *Bonney v. Greenwood*, *supra*. Citing *Pierce v. Dyer*, 109 Mass. 374, 12 Am. Rep. 716; *Heartt v. Kruger*, 121 N. Y. 386, 9 L. R. A. 135, 18 Am. St. Rep. 829.

A party wall must be a solid wall, without openings for windows. *Bonney v. Greenwood*, *supra*. Citing *Normille v. Gill*, 159 Mass. 427, 38 Am. St. Rep. 441, and *Vollmer's Appeal*, 61 Pa. 118; *Traute v. White*, 46 N. J. Eq. 437; *Jones*, Easements, sec. 687.

To same effect, *Shirley v. Crabb*, 138 Ind. 200, 46 Am. St. Rep. 376; *Douglas v. Coonley*, 84 Hun, 158. But cf. *Zell v. Universalist Soc.* 119 Pa. 390, 4 Am. St. Rep. 654.